IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 115 OF 2006

Mr.Jeetendra M. Tanna. ... Applicant.

V/s.

1. Mr.Khushal Jain.

2. The State of Maharashtra. ... Respondents.

R.V.Pawaskar for the applicant.

J.P.Shah i/b. JPS Legal for respondent No.1.

Ms.M.H.Mhatre, APP for respondent No.2- State.

CORAM: V.C.DAGA, J.

DATED: 28th August 2007.

P.C.:

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1. Heard learned counsel for the applicants and learned A.P.P. for the State.

2. This revision is directed against the order dated 12th January, 2006 passed by the Addl.Sessions Judge, Mumbai in Criminal Appeal No.421/2004, whereby by modifying the order of the trial Court the accused was sentenced to suffer simple imprisonment (S.I.) for six months and to pay fine of Rs.2,00,000/-. Out of the fine amount, amount of Rs.1,50,000/- was directed

to be paid to the complainant as compensation under section 357 of Cr.P.C., in default to suffer S.I. for three months.

3. The applicant- accused was tried by learned Metropolitan Magistrate for an offence punishable under section 138 of the Negotiable Instruments Act and sentenced him to suffer S.I. till rising of the Court and to pay Rs.1,00,000/- towards compensation. The original cheque amount is of Rs.1,00,000/-. The cheque was dishonoured in the month of August, 2001. As stated above, vide impugned order the the accused is sentenced to pay fine of Rs.2,00,000/- out of which Rs.1,50,000/- are directed to be paid to the complainant.

4. The learned counsel for the applicant submits that the applicant was already in custody for three days. He, therefore, submits that out of Rs.2,00,000/-, deposited by the applicant, the complainant may be allowed to withdraw Rs.1,50,000/- and out of balance amount Rs.5,000/- be paid to the State Government towards fine and Rs.45,000/- be refunded to the applicant. He further submits that since the applicant has already undergone 3 days imprisonment the sentence of imprisonment may be reduced to the extent already undergone.

5. By consent of parties imprisonment of the applicant is reduced from six months to the extent already undergone. Complainant be paid Rs.1,50,000/- towards compensation. Rs.5,000/- paid paid to the State Government on account of fine amount. The balance amount of Rs.45,000/- be refunded to the applicant.

6. Revision application is disposed of accordingly.

JUDGE